CONTRA COSTA COUNTY ENFORCEMENT WORK PLAN FOR FY 2006/2007

I. Resources

A. County Resources

- For fiscal year 2006/2007 there will be three full time and one half time staff members in the main Concord office dedicating the majority of their time to Pesticide Use Enforcement (PUE). This represents one less full time person then the Concord pesticide unit had the previous fiscal year. This is the result of a rotation in county personnel to fill vacated positions in the department's pest exclusion unit. One of the full time staff members is new to the unit and has had limited experience in pesticide use enforcement. We anticipate an initial decrease in productivity per inspector as more senior staff are called upon to help train this new person. An overall decrease in productivity for the unit as a whole (when compared to the previous fiscal year) is expected as we will be operating with one less staff member.

  The number of business records inspections and headquarter/employee safety inspections remains fairly constant from year to year as our department policy is to register all home based pest control companies in person at their place of business with a few exceptions. These exceptions include businesses with no fixed storage and no employees. Staff members from other units are called upon in the beginning of the calendar year to achieve this goal.

  The numbers of inspections completed by staff are tracked monthly by the PUE deputy. Goal numbers for the various types of inspections have been established based on goals from previous years' work plans and historic totals (See attachment 1). We anticipate a reduction of 20% in the total number of inspections based on the staffing changes discussed in the first paragraph.

- The Knightsen branch office has three full time and one part time staff that will all spend approximately 50% of their time performing PUE. The branch office is located in that portion of the county where the majority of agricultural production occurs. This is the area where most of the aerial pesticide applications take place. The PUE duties there involve a large number of early morning monitoring inspections of pesticide applications to agricultural crops as well as responding to the concerns of an increasing residential population as development continues to bring homes closer to the county's farmland.

- Contra Costa County has purchased and uses the RMMS permit system and has access to digital aerial photographs which it uses to generate maps where pesticides will be applied.

II. Core Program Activities

A. Restricted Material Permitting

1. **Site Monitoring:** We have identified a number of sensitive and highly sensitive sites in the eastern portion of the county where 100% of the aerial pesticide applications are monitored by our department. The majority of these sites are production agriculture fields that are adjacent to or near residential development. The monitoring of these fields serves to protect the public health, environmental welfare and agricultural interests of the county. In many cases, these proposed applications require the advanced notification of potentially affected parties (i.e. schools, communities, individuals). We have conditioned the restricted materials permit (RMP) of the aerial applicator that performs these applications. The monitoring of aerial applications of non-restricted materials is currently a voluntary agreement between the pest control operator and the department. Scheduling of pesticide applications is discussed verbally between the monitoring biologist and the pest control pilot.

   For non-agricultural permits, it is our policy to issue a RMP on-site at the time of application to ensure that a monitoring inspection is performed on each pest control company requesting a permit. If the application is performed to our satisfaction, the Notice of Intent (NOI) requirement is waived for non-agricultural uses for the remainder of the calendar year. NOI requirements are never waived for non agricultural restricted materials applications at school sites.

2. **Hazard Evaluation:** Issuance of RMP's for agricultural use operations is performed at the annual headquarters and records inspection. It is at this time that maps of proposed application sites are reviewed. New and existing potential for hazards are reviewed and discussed. A discussion of mitigation measures takes place between the staff biologist and the permit applicant. These measures typically include, but are not limited to: the establishment of a "buffer zone" where restricted materials are not to be applied; alternative pest control practices; the application of reduced risk pesticides; advance notification to neighboring properties; and permit conditions to mitigate potential hazard. All permits and

inspections are reviewed by the supervising deputy before they are logged and filed.

Any non-compliances encountered with record keeping or pest control equipment are corrected at the site or a follow-up inspection is scheduled. Training documents are reviewed for completeness and suggestions may be made by the biologist.

Permits are not issued unless the applicator has met all of his legal responsibilities and the biologist is confident that all reasonable precautions have been explored and implemented.

3. **Permit Guidance:** All department personnel who issue RMP's have passed state licenses in both Pesticide Regulation and Investigation and Environmental Monitoring. New staff are trained by senior biologist by accompanying them on monitoring and Headquarters inspections. Newly trained staff do not issue permits or conduct inspections until both they and their trainers are satisfied with their knowledge and performance.

   Prior to the new permit issuance season, a staff meeting is held for the purpose of training new and experienced biologists. The meeting includes a review of existing policies and practices, newly passed legislation and regulations, areas of non compliance encountered during the past year and other current PUE issues.

   Training of the RMMS permit system is on-going for all staff as upgrades are installed and workshops and discussion groups are scheduled routinely.

   Areas of Needed Improvement:

   - Maps that accompany RM permits could be improved.

   - Any applicable buffer zones and other delineated areas should be identified on RM map.

   - Denial of restricted material use requests could be better documented and the existing permit denial form needs revision to better describe denial actions of the biologist.

   - Many staff members need to become more proficient at querying the RMMS databases. Our office receives numerous requests for grower, crop and pesticide application information. These assignments have historically been given to those individuals who already possess strong

computer skills, leaving less experienced personnel with little opportunity to improve in this area.

- As label and regulation changes frequently occur midyear in a permit season, it sometimes becomes necessary to contact permit holders and amend permit conditions, revaluate sites for environmental sensitivities or advise on best pest management practices.

Plan for Improvement

- We now have access to aerial photographs of the entire county. In addition to providing an image of the exact parcel of land to be sprayed, these photographs will visually identify environmentally sensitive sites adjacent to proposed treatment areas.

- Buffer zones and delineation areas can be drawn as an overlay on the aerial photographs used as the RM map. We can also add road names, identify landmarks and include other text as we deem appropriate.

- We will revise the permit denial form prior to permit issuance time that starts in January. Biologists often suggest better alternative methods of pest control to homeowners and small agricultural operations thus doing away with the need for the requested restricted material. This will be one area to be tracked on the RM denial form. The existing permit denial form will also be updated to more accurately describe our justification for refusing to grant a RM permit.

- Time will be formally scheduled so that staff that are proficient at RMMS queries can train those that are not. Some of this will be in a group session and will be followed by one-on-one training. A goal will be to have each newly trained Biologist perform at least one actual query that the department receives before the end of this fiscal year.

B. Compliance Monitoring

1. **Inspections:** The department has internal goals for the various inspection categories. These goals are set with a careful review of the current pest control activities occurring in the county, the number of non-compliances encountered in recent inspections, the potential for hazard with a particular kind of pesticide application,

the current emphasis DPR assigns to a particular kind of pesticide application, the current workload in other programs the department performs and the resources at our disposal.

An individual biologist's completed inspections are reviewed and tabulated weekly by his/her supervising Deputy Agricultural Commissioner.

2. **Investigations/Complaints:** Routine investigations are made as expediently as county resources allow. Targeted completion dates are consistently met and reports are thorough. All completed investigations are reviewed by the supervising Deputy Agricultural Commissioner. A county list of Doctor's First Report of Occupational Injury or Illness is received monthly by the PUE deputy and reviewed for adherence to report submission deadlines.

   Complaints and inquires that do not involve the potential for a health or environmental hazard are logged on the "Non Illness Pesticide Complaint Log". This form and instructions for completing it are included in ENF 95-043. This form is submitted electronically to the department's EBL on a monthly basis.

   Contra Costa County adheres to the guidelines set forth by The Department of Pesticide Regulation (DPR) in both content and timeliness in conducting and completing priority investigations. Contact with the county's Enforcement Branch Liaison (EBL) is made as soon as a priority investigation is identified. The EBL is consulted as to the most appropriate course of action to take in a particular episode. Communication is on-going throughout the investigation and requests for information and resources are made directly to the EBL.

   All staff that completes priority investigations have received DPR training in episode investigation, investigative sampling techniques and report writing. Completed reports are reviewed by the supervising deputy and the agricultural commissioner.

Areas of Needed Improvement:

- Timely re-inspections of previously documented non-compliances continue to be a scheduling problem for inspection staff.

- Staff needs to be directed to conduct more field worker inspections as numbers are down from previous year's totals.

- Need to make more time for oversight inspections with EBL.

Plan for Improvement

- Give staff a set and reasonable timeframe (generally two weeks) to accomplish re-inspections and direct them to report the status to the Deputy within that timeframe.

- Directing inspectors to perform an immediate follow-up on the applicator's next scheduled stop may be a way to address more timely re-inspections**.**

- Direct appropriate staff to complete a minimum set number of field worker inspections and to report to the Deputy as they are accomplished. The Deputy will track the progress made by each inspector in meeting this directive.

- Arrange with EBL for a minimum of one annual (semiannual) oversight inspections with each inspector that is actively working in PUE. This requirement will eliminate the possible perception by any individual inspector that they are being singled out. In the case of training needs or other problems that may surface from the oversight inspections, the department will handle these needs with the possible help of the EBL or other training that is offered or that can be set up through DPR.

C. Enforcement Response

1. **Violation History Tracking:** Inspections where non-compliances are encountered automatically generate a follow-up inspection unless the non-compliance is minor and can be corrected at the time of inspection. Biologists schedule their own follow-up inspections and all required follow-up inspections are tracked by the supervising Deputy Agricultural Commissioner. Periodic review

is performed by the supervisor to ensure that follow-up inspections are completed in a reasonable amount of time.

The supervising deputy may prioritize certain types of inspections with the PUE staff. Efforts are made to target inspections where a higher than average number of non-compliances are being encountered. These efforts may include surveillance in particular areas of the county where certain pesticide applications occur, unannounced return visits to agricultural fields where violations were encountered, and after hour or weekend monitoring of pesticide applications.

We have a number of tools at our disposal to address non-compliances encountered during inspections. These include compliance interviews, letters of warning, violation notices and civil penalties. We recently met with our county's assistant district attorney to discuss the possibility of referring cases to their office when our resources are insufficient to levy an appropriate punitive response to a violation of agricultural law or when their actions are criminal in nature.

Substantial violations or repeats of minor violations are reviewed at the office by the inspector. After review of the applicator's compliance history, the inspector asks for a meeting of the Enforcement Action Team (EAT). The EAT consists of the inspecting biologist, the supervising Deputy Agricultural Commissioner and a permanently designated senior biologist. Together, the three members of EAT discuss the violation and the appropriate enforcement response to take against the violator. The permanently designated senior biologist exists to bring consistency between the two offices and ensure similar punitive response. A unanimous decision is not a requirement, and in fact, the team is composed of an odd number of members to ensure that a decision is made. DPR's Enforcement Response Policy (ERP) is consulted and followed during the course of the EAT meetings.

Organized notes are taken during EAT meetings which state the recommendation of the team. These notes serve as a decision report for the action the team recommends. An area of improvement identified for FY 2005/2006 is to develop a standard form which documents the key elements of the violation and identifies the facts and reasoning used to come to the resulting decision. Any deviations from the DPR ERP will be justified by a Decision Report. Decision Reports will be forwarded to DPR within 30 days.

When the decision is made to levy a civil penalty against the violator, the Supervising Deputy Agricultural Commissioner presents the decision to the Agricultural Commissioner for his approval. The Notice of Proposed Action (NOPA) is written by the inspecting biologist and reviewed and approved by the supervisor before being given to the commissioner for his signature.

Areas of Needed Improvement

- All pesticide use enforcement staff have received training on the ERP and need to become more familiar at applying the new guidelines.
- We need to start completing the decision report at our EAT meetings as a way of documenting our enforcement decisions.
- There are also staff that need more experience in writing NOPA's.

Plan for Improvement

- Make it a policy to follow applicator to next application site and perform re-inspection immediately after a non-compliance is encountered.
- Have the note-taker of the meeting fill out the decision report as the EAT meeting is conducted rather than complete the decision report after the meeting.
- Deputy will assign the NOPA writing to the biologist most familiar with the incident, usually the inspecting biologist at the application site.

III. Desirable Activities

A. Pesticide Handler and Fieldworker Training Sessions

The department is fortunate to have two Spanish speaking staff members. They conduct several training classes to agricultural workers in both Brentwood and Richmond. They train between 300 and 400 pesticide handlers and fieldworkers each year. These training classes are multi-media presentations that are updated annually and have been very well received by the agricultural community. These classes

help the agricultural community by partially satisfying the training requirements for employees in crop production settings. Many local growers lack the resources to provide adequate training for their employees whose work assignments may require them to enter treated fields.

The department spends approximately 80 man-hours of time on this activity annually.

B. Contra Costa County IPM Task Force

The Department of Agriculture has three staff that sit on the county's IPM Task Force. Meetings are held bi-monthly and are open to all interested parties. In addition to site visits and outreach activities, the task force tracks the internal pest control activities of the county and any outside vendors the county employs. Twelve county sites have a "stepped up" IPM approach to pest control which is conducted by Orkin Pest Control. An annual report is presented to the Board of Supervisors in December of each year. The ultimate goal of the IPM Task Force is to establish long term suppression of pests and reduce the amount of pesticide risk to county employees.

The department spends approximately 60 to 80 man-hours of time on this activity annually.

C. Continuing Education Class for Private Applicator Certificate Holders

Each winter, the Knightsen branch office conducts training classes for growers who need to acquire continuing education hours for the renewal of their private applicator certificates. Typically, two classes are given on evenings or weekends and feature presentations by the CAC staff on regulatory issues. Guest speakers are also invited such as the local farm advisor who gives updates on research being performed by the University of California Cooperative Extension. These classes are well received by the agricultural community and provide an excellent forum for the discussion of new agricultural techniques that decrease pest pressure and reduce the need for pesticide applications.

The department spends approximately 120 man-hours of time on the preparation and presentation of these classes annually.